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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/976,406	10/12/2001	Arnold Neracher	16669-3	3542

7590 08/23/2005

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EXAMINER
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WILLIAMS, CATHERINE SERKE

ART UNIT	PAPER NUMBER
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3763

DATE MAILED: 08/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/976,406

Applicant(s)

NERACHER, ARNOLD

Examiner

Catherine S. Williams

Art Unit

3763

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 31 May 2005.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 68-111 is/are pending in the application.
- 4a) Of the above claim(s) 70-72, 75, 78, 79, 83-100 and 103-111 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 68, 69, 73, 74, 76, 77, 80-82, 101 and 102 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## **DETAILED ACTION**

### ***Continued Examination Under 37 CFR 1.114***

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 5/31/05 has been entered.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 68,73,77 and 80-82 are rejected under 35 U.S.C. 102(b) as being anticipated by Willis (USPN 2,590,138). Willis discloses a container (1) and a primary source of potential energy (17) being a substance compressible under pressure. The compressible substance is an elastic solid (see spring #17). The compressible substance is put under pressure by reducing the volume that it, the spring, takes up in the container. See figure 2. The container has a piston (7) that is a moveable member and encloses the compressible substance on one side of the housing. See figure 2. The piston is configured to move to transmit pressure after retaining means rod (21) has been released. See figure 3.

Claims 68-69,73-74,77,80 and 101 are rejected under 35 U.S.C. 102(b) as being anticipated by Kriesel (USPN 5,743,879). Kriesel discloses a container and a primary source of potential energy (48) being a substance compressible under pressure. The compressible substance is an elastic polydimethylsiloxane (see 6:8). The compressible substance is put under pressure by reducing the volume that it takes up in the container. See figure 5. The container has a piston (48c) that is a moveable member and encloses the compressible substance on one side of the housing. See figure 1. The container is an injector for drug or medicament into the body. Since the compressible substance is a polysiloxane, it meets the compressibility properties as claimed.

Claims 68,73,77,80-81 and 101 are rejected under 35 U.S.C. 102(b) as being anticipated by Wilmot (USPN 5,391,151). Wilmot discloses a container and a primary source of potential energy (5) being a substance compressible under pressure. The compressible substance is an elastic solid (see spring #5). The compressible substance is put under pressure by reducing the volume that it, the spring, takes up in the container. The container has a piston (4) that is a moveable member and encloses the compressible substance on one side of the housing. See figure 1. The piston is configured to move to transmit pressure after retaining means has been released. See 3:31-33.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3763

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 76 and 102 are rejected under 35 U.S.C. 103(a) as being unpatentable over

Wilmot. Wilmot meets the claim limitations as described above but fails to specifically disclose the pressure of the compressible substance to be at least 200 bars prior to use and a fluid jet of supersonic speed. However, at the time of the invention, it would have been obvious by one in the art to consider the device of Wilmot to have a pressure of at least 200 bars that would result in a fluid jet of supersonic speed. Weston teaches that powered injectors generate a high pressure such as 600 bars or more. See Weston 1:59+. This pressure would result in a jet of supersonic speed.

### *Conclusion*

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. USPNs 6,440,099 B2 and 4,307,794.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Catherine S. Williams whose telephone number is 571-272-4970. The examiner can normally be reached on Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nicholas D. Lucchesi can be reached on 571-272-4977. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3763

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A handwritten signature in cursive script, reading "Catherine S. Williams".

Catherine S. Williams

August 18, 2005